

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

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PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

21 OCT 2004

Date of mailing
(day/month/year)

Applicant's or agent's file reference

LAILA:INT:006

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/IN04/00107

International filing date (day/month/year)

19 April 2004 (19.04.2004)

Priority date (day/month/year)

International Patent Classification (IPC) or both national classification and IPC

IPC(7): A61K 31/19; C07C 59/245, 59/265 and US Cl.: 514/574; 562/582, 584

Applicant

GOKARAJU GANGA RAJU

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US

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Form PCT/ISA/237 (cover sheet) (January 2004)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/IN04/00107

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐ a sequence listing

☐ table(s) related to the sequence listing

b. format of material

☐ in written format

☐ in computer readable form

c. time of filing/furnishing

☐ contained in international application as filed.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/IN04/00107

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application

☒ claims Nos. 8-16 and 18

because:

☐ the said international application, or the said claim Nos. _____ relate to the following subject matter which does not require an international preliminary examination (*specify*):

☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 8-16 and 18 are so unclear that no meaningful opinion could be formed (*specify*):

Claims 8-16 and 18 are improper multiple dependent claims.

☐ the claims, or said claims Nos. _____ are so inadequately supported by the description that no meaningful opinion could be formed.

☐ no international search report has been established for said claims Nos. _____

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form

☐

has not been furnished

☐

does not comply with the standard

the computer readable form

☐

has not been furnished

☐

does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.

☐ See Supplemental Box for further details.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/IN04/00107

Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>3, 4, 6, 7</u>	YES
	Claims <u>1, 2, 5, 17, 19</u>	NO
Inventive step (IS)	Claims <u>3, 4, 6, 7</u>	YES
	Claims <u>1, 2, 5, 17, 19</u>	NO
Industrial applicability (IA)	Claims <u>1-7, 17 and 19</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and explanations:

Claims 1, 2, 5, 17 and 19 lack novelty under PCT Article 33(2) as being anticipated by SHRIVASTAVA. SHRIVASTAVA teaches (Column 3, lines 38-46) compositions containing magnesium hydroxycitrate and zinc ions in which it is presumed that the instantly claimed salts form. SHRIVASTAVA further teaches (Column 1, lines 37-42 and column 4, lines 48-57) the use of hydroxycitrate salts in the treatment of obesity, dietary foods and nutraceuticals.

Claims 1, 2, 5, 17 and 19 lacks an inventive step under PCT Article 33(3) as being obvious over the prior art for the same reasons that they lack novelty.

Claims 3, 4, 6, and 7 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the instantly claimed double salt of hydroxycitric acid.

Claims 1-7, 17 and 19 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.